

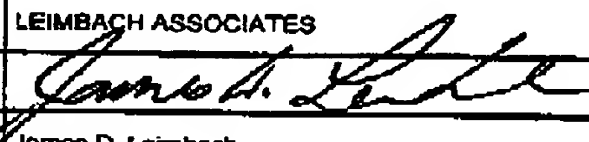
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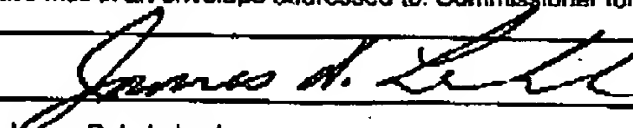
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	09/818,303	
	Filing Date	03/27/2001	
	First Named Inventor	Nayenko Dimitrova	
	Art Unit	2523	
	Examiner Name	Jason P. Salce	
Total Number of Pages in This Submission	7	Attorney Docket Number	US010079

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND**  
**INTERFERENCES**

In re Application of  
NEVENKA DIMITROVA

AUTOMATIC RETRIVAL  
GENIE

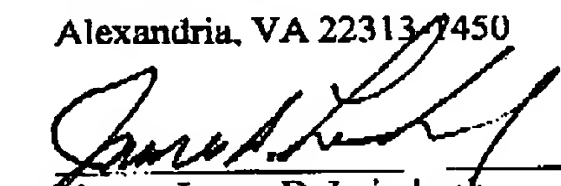
Serial No. 09/818,303

Filed: March 27, 2001

Confirmation No.: 9218

Group Art Unit: 2623  
Examiner Jason P. Salce

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**REPLY BRIEF UNDER 37 C.F.R. § 41.41**

Sir:

This correspondence contains a Reply Brief under 37 C.F.R. §41.41 in response to the  
Examiner's Answer mailed August 23, 2006.

Serial No. 09/854,119

**REPLY BRIEF UNDER 37 C.F.R. § 41.41**

The Examiner's Answer indicates that the Status of Amendments After Final section of the appellant's Appeal Brief was in error. The appellant concedes that the examiner is correct and apologizes to the Board for a word processing error contained in the Status of Amendments After Final section of the appellant's Appeal Brief. The appellant, respectfully, points out that the Status of Amendments After Final section within the Examiner's Answer is also incorrect. The correct states of the appealed claims after final is as follows: (I) appealed claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52 and 54-59 are rejected under the provisions of 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,553,221 issued in the name of Reimer et al. (hereinafter *Reimer et al.*); (II) appealed claims 3, 12, 30 and 39 are rejected under the provisions of 35 U.S.C. §103(a) as being obvious over *Reimer et al.* in view of U.S. Patent No. 6,766,320 issued in the name of Wang et al. (hereinafter *Wang et al.*); and (III) appealed claims 26 and 53 are rejected under the provisions of 35 U.S.C. §103(a) as being obvious over *Reimer et al.* in view of *Wang et al.* and further in view of U.S. Patent No. 6,061,056 issued in the name of Menard et al. (hereinafter *Menard et al.*).

**I. The rejection of appealed claims 1-2, 4-11, 13-25, 27-29, 31-38, 40-52 and 54-59 under 35 U.S.C. § 102(b) as being anticipated by *Reimer et al.***

The Examiner's Answer states beginning on page 16 under Response to Argument that the language defined by the appealed claims is broad does not distinguish if the system automatically prompts a user or if the user initiates the prompting. The examiner further asserts that the claim language is broad and does not necessarily limit the subject matter defined by the claims to the actual query system. Appealed claim 1 defines elements in succession "receiving by the software a query keyed to a segment of the video content" and "ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast". Clearly, appealed claim 1 defines that it is the user that is prompted if the query needs to be recast.

Appealed claim 28 explicitly defines a video query processing system having video query processing software dynamically linked to video content and configured to receive a query keyed to a segment of the video content and configured with means for ascertaining if the

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query needs to be recast and prompting for user input if the query needs to be recast. It is abundantly clear that the video processing software prompts the user if the video processing software determines that the query needs to be recast.

Appealed claim 55 defines a video processing architecture, including a memory that includes a computer code configured to be dynamically linked to video content and configured to receive a query keyed to a segment of the video content and further configured with means for ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast and further configured to determine an answer to the query. Appealed claim 55 clearly defines that computer code ascertains if the query needs to be recast and prompts the user for input if the query needs to be recast.

Appealed claims 1, 28 and 55 clearly define subject matter for the system for system software and computer code to ascertain if the query needs to be recast. Appealed claims 1, 28 and 55, furthermore, clearly define subject matter for the system for system software and computer code to prompt the user for input if the query needs to be recast. As stated in the Examiner's Answer by the examiner, *Reimer et al.* teach that the user must traverse menus to identify questions. The appellant, respectfully, submits to the Board that no reasonable reading of the subject matter for ascertaining if the query needs to be recast and prompting for user input if the query needs to be recast as defined by the appealed claims is anticipated by the teaching of *Reimer et al.* The "ordinary and customary meaning of a claim term is the meaning that the term would have to a person of ordinary skill in the art in question at the time of the invention, i.e., as of the effective filing date of the patent application." *Phillips v. AWH Corp.*, 376 F.3d 1382, 75 USPQ2d 1321 (Fed. Cir. 2005) (*en banc*). A person of ordinary skill in the art would not believe that the clear definition for system software or computer code to ascertain if the query needs to be recast and prompting for user input if the query needs to be recast would be equivalent to a system that requires a user to traverse menus to identify questions as asserted by the examiner.

**II. The rejection of appealed claims 3, 12, 30 and 39 under 35 U.S.C. S 103(a) as being obvious over *Reimer et al.* in view of *Wang et al.***

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In response to the appellant's assertion that there is no suggestion or motivation to combine *Reimer et al.* with *Wang et al.*, the examiner asserts that the states on col. 2, lines 54-56 of *Wang et al.* provides such motivation and suggestion. The appellant respectfully directs the Board's attention to col. 2, lines 54-56 of *Wang et al.* which simply states that there a further need to improve the user interface of search engines to better capture the user's intention as a way to provide higher quality search results. The appellant fails to see how this simple statement within col. 2, lines 54-56 of *Wang et al.* provides that requisite suggestion or motivation to combine *Reimer et al.* with *Wang et al.* The appellant, respectfully, asserts that the comments in the Examiner's Answer are no more than a mere statement that the combination is suggested or motivated without any basis in the references themselves as required. This allegation is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references.

Moreover, the examiner alleges that col. 2, lines 54-56 of *Wang et al.* which simply states that there a further need to improve the user interface of search engines to better capture the user's intention as a way to provide higher quality search results provides the requisite reasonable expectation of success. The examiner's rationale is that *Wang et al.* states that a higher quality search is provide. The appellant fails to see the logic of the examiner. Specifically, one reference making a statement that a higher quality search results has nothing to do with the requisite reasonable expectation of success for combining that reference with another reference. As states by the appellant in the Appeal Brief, the modification proposed by the rejection renders the prior art references modified unsatisfactory for their intended purposes. Therefore, there is no suggestion or motivation to make the proposed modification and clearly no reasonable expectation of success.

The combination made by the rejection would change the principle of operation of the cited references, *Reimer et al.* and *Wang et al.* *Reimer et al.* is intended to respond to queries associated with indexed movies and not to queries that are the result of an input to a computer based search engine that searches everything on the internet. The search engine of *Wang et al.* would not provide the functionality needed for the indexed video queries of *Reimer et al.* Additionally, the indexed video queries of *Reimer et al.* would not operate on a computer based search engine such as that taught by *Wang et al.* that expects queries to be phrase in the form of

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normal language parsing. Therefore, the teachings of *Reimer et al.* and *Wang et al.* are not sufficient to render the appealed claims *prima facie* obvious.

**III. The rejection of appealed claims 26 and 53 under 35 U.S.C. S 103(a) as being obvious over *Reimer et al.* in view of *Wang et al.* and further in view of *Menard et al.***

The Examiner's Answer states that col. 3, lines 16-20 of *Menard et al.* provides a suggestion or motivation to combine *Reimer et al.* with *Menard et al.* The appellant respectfully draw the Board's attention to col. 3, lines 16-20 of *Menard et al.* which states that the invention of *Menard et al.* can be used by cable carriers and telephone companies for filtering and querying capability on live broadcasts. The appellant denies that this simple statement provides the requisite suggestion of motivation to combine these references.

The response in the Examiner's Answer focuses on feature extraction in the attempt to combine *Reimer et al.* with *Menard et al.* without providing any rationale for making the combination.

The modification proposed by the rejection renders the prior art references modified unsatisfactory for their intended purposes. *Reimer et al.* is intended to respond to queries associated with movies that are indexed and is not intended to be used with a monitoring system to provide automatic selection of program material. The automatic selection of program material taught by *Menard et al.* would not provide the functionality needed for the indexed video queries of *Reimer et al.* Additionally, the video queries of *Reimer et al.* would not operate on the automatic selection of program materials taught by *Menard et al.* Conversely, the video queries of *Reimer et al.* would not operate with the automatic selection of program material taught by *Menard et al.* Therefore, there is no suggestion or motivation to make the proposed modification.

As stated in the Appeal Brief, the combination made by the rejection would change the principle of operation of the cited references, *Reimer et al.* and *Menard et al.* *Reimer et al.* is intended to respond to queries associated with indexed movies and not to queries that are made for the purpose of automatic selection of program material that is being broadcast as taught by *Menard et al.* The automatic selection of program material taught by *Menard et al.* would not

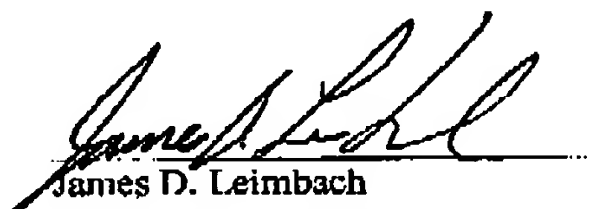
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provide the functionality needed for the indexed video queries of *Reimer et al.* Additionally, the indexed video queries of *Reimer et al.* would not operate on automatic selection of program material taught by *Menard et al.* that monitors program material to find a match. Therefore, the teachings of *Reimer et al.* and *Menard et al.* are not sufficient to render the appealed claims *prima facie* obvious.

### Conclusion

In summary, the examiner's rejections of the claims are believed to be in error for the reasons explained above. Accordingly, the rejection of claims 1-59 should be reversed.

Respectfully submitted,



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